

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF AT&T COMMUNICATIONS )  
OF THE SOUTH CENTRAL STATES, INC. TO ) CASE NO. 99-135  
RE-EVALUATE BELL SOUTH'S UNE RATES )

O R D E R

On March 26, 1999, AT&T Communications of the South Central States, Inc. ("AT&T") filed a petition requesting the Commission to re-evaluate the rates to be paid for the unbundled network elements ("UNEs") of BellSouth Telecommunications, Inc. ("BellSouth"). The rates to be paid were established in Case Nos. 96-431<sup>1</sup> and 96-482,<sup>2</sup> arbitration proceedings conducted pursuant to the Telecommunications Act of 1996, 47 U.S.C. § 252. Pursuant to its own arbitration case, AT&T executed an agreement with BellSouth incorporating the specified UNE rates. By mutual agreement, the terms of this contract are in effect until August 13, 2000. Nevertheless, AT&T argues, among other things, that the rates are based upon faulty cost studies and that they do not, therefore, comply with pricing rules issued by the Federal Communications Commission. BellSouth has filed no response to the petition.

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<sup>1</sup> Case No. 96-431, Petition By MCI For Arbitration of Certain Terms and Conditions of a Proposed Agreement With BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996, Order dated December 20, 1996.

<sup>2</sup> Case No. 96-482, The Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C., Order dated February 6, 1997.

AT&T's contentions are nothing new, although they are now buttressed by new legal citations. The ink on the Order specifying rates was hardly dry before AT&T began filing motions to reopen the pricing issues which had been heard and decided during the strict time frame specified in 47 U.S.C. § 252(b)(4). This Commission denied AT&T's motions to open an additional docket to begin, from ground zero, re-evaluation of costs upon which UNEs are to be provided by BellSouth. The Commission held that it would not review the prices during the term of the current contract and that to do so would violate the statute. Consequently, AT&T filed suit, contending, inter alia, that the prices set by the Commission violate the law. The United States Court of Appeals for the Eastern District of Kentucky rejected AT&T's argument. See AT&T Communications of the South Central States, Inc. v. BellSouth Telecommunications, Inc., 20 F. Supp.2d 1097 (E.D. Ky. 1998).

AT&T may, pursuant to federal law, request that BellSouth negotiate new prices when time for renewal is near. Should such negotiations reach impasse, the Commission stands ready to provide arbitration. For the time being, AT&T's renewed petition should be denied.

The Commission having been sufficiently advised, IT IS HEREBY ORDERED that AT&T's petition be, and it hereby is, denied.

Done at Frankfort, Kentucky, this 24<sup>th</sup> day of May, 1999.

By the Commission

ATTEST:

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Executive Director